

10889. Adulteration and misbranding of canned tomatoes. U. S. v. 750 Cans (Cases) of Tomatoes. Decree ordering release of the product. (F. & D. No. 16164. I. S. No. 18242-t. S. No. C-2916.)

On May 5, 1922, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 750 cans (cases) of tomatoes, consigned on or about February 1, 1922, remaining in the original cans at Terrell, Texas, alleging that the article had been shipped by R. G. Layman & Sons, Cloverdale, Va., and transported from the State of Virginia into the State of Texas, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Springdale Brand Hand Packed Tomatoes * * * Packed by R. G. Layman & Sons Cloverdale, Va."

Adulteration of the article was alleged in the libel for the reason that water had been mixed and packed with and substituted wholly or in part for the said article, and for the further reason that it was mixed in a manner whereby damage or inferiority was concealed.

Misbranding was alleged in substance for the reason that the statement "Tomatoes," appearing on the labels of the cans containing the article, was false and misleading, and deceived and misled the purchaser. Misbranding was alleged for the further reason that the article was an imitation of and offered for sale under the distinctive name of another article.

On July 25, 1922, R. G. Layman & Sons, Cloverdale, Va., claimant, having relabeled the product so that the statement "Whole Ripe Tomatoes Packed in Water" appeared, in addition to the labeling theretofore placed on the said cans, and the court having taken notice of an error in the libel and having determined that the said libel should have been brought against 750 cases of the article instead of 750 cans, it was ordered by the court that the product be released to the said claimant upon payment of the costs of the proceedings.

C. F. MARVIN, *Acting Secretary of Agriculture.*

10890. Misbranding of horse and mule feed and molasses feed. U. S. v. Milam-Morgan Co., Ltd., a Corporation. Pleas of guilty. Fines, \$40. (F. & D. Nos. 13161, 15062. I. S. Nos. 600-r, 11177-r, 11982-t, 13304-t.)

On November 27, 1920, and October 4, 1921, respectively, the United States attorney for the Eastern District of Louisiana, acting upon reports by the Secretary of Agriculture, filed in the District Court of the United States for said district two informations against the Milam-Morgan Co., Ltd., a corporation, New Orleans, La., alleging shipment by said company, in violation of the Food and Drugs Act, on or about April 24 and June 1, 1920, and February 24, 1921, respectively, from the State of Louisiana into the State of Mississippi, and on or about October 24, 1919, from the State of Louisiana into the State of Georgia, of quantities of horse and mule feed and molasses feed which were misbranded. The articles were labeled in part, variously: "* * * Suwanee Horse and Mule Feed Manufactured by Milam-Morgan Co., Ltd. New Orleans, La. * * *;" "* * * Primo Molasses Feed Manufactured by Milam-Morgan Co., Ltd., New Orleans, La. * * *;" "Georgia * * * My-T-Good Horse and Mule Feed Manufactured by Milam-Morgan Co., Ltd. New Orleans, La. * * *;" and "* * * Bay Mule Molasses Feed Manufactured by Milam-Morgan Co., Ltd. New Orleans, La. * * *."

Analysis of a sample of the Suwanee brand, by the Bureau of Chemistry of this department, showed that it contained 6.78 per cent of protein. Examination of said article showed that it contained corn, oats, alfalfa, oat hulls, and oat starch, probably from oat feed, rice bran which appeared to contain an excessive amount of rice hulls, and peanut shells, with possibly a little peanut meal, and that it did not contain cottonseed meal or velvet bean meal. Analysis of a sample of the Primo brand, by said bureau, showed that it contained 1.53 per cent of fat and 7.16 per cent of protein. Examination of said article showed that it contained corn, oats, alfalfa, a trace of rice bran, and a considerable amount of rice hulls, and some grass tissues which were either a contamination or an adulteration of the alfalfa. Analysis of a sample of the My-T-Good brand, by said bureau, showed that it contained 7.09 per cent of protein. Analysis of a sample of the Bay Mule brand, by said bureau, showed that it contained 6.71 per cent of protein and 20.50 per cent of fiber. Examination of said article showed that it contained corn, oats, alfalfa, rice bran which appeared to contain an excess of rice hulls, a little kafir or milo, a small amount

of cottonseed hulls, and a considerable amount of peanut shells. No oat feed or cottonseed meal was found.

Misbranding of the articles was alleged in substance in the informations for the reason that the statements, to wit, "Guaranteed Analysis Protein 9.00 per cent" and "Made from Corn, Oats, Rice-Bran C. S. Meal or Velvet Bean Meal, Alfalfa Meal, Oat Feed (Oat Hulls, Oat Shorts, Oat Middlings), Molasses, Salt," with respect to the Suwanee brand, the statements, to wit, "Guaranteed Analysis. Fat 2.00 per cent Protein 9.00 per cent" and "Containing Corn, Oats, Alfalfa, Cane Molasses, Salt," with respect to the Primo brand, the statement, to wit, "Guaranteed Analysis. Protein 9.00 per cent," with respect to the My-T-Good brand, and the statements, to wit, "Guaranteed Analysis. Protein 9.00 per cent Fibre 15.00 per cent" and "Containing Corn, Oats, Alfalfa, Cottonseed Meal, Oat Feed (Oat Hulls, Oat Middlings, Oat Shorts), Rice Bran, Cane Molasses, Salt," with respect to the Bay Mule brand, borne on the tags attached to the sacks containing the respective articles, regarding the said articles and the ingredients and substances contained therein, were false and misleading in that the said statements represented that the articles each contained not less than 9 per cent of protein and that the Primo brand contained 2 per cent of fat and the Bay Mule brand contained not more than 15 per cent of fiber, and that the articles consisted wholly of the ingredients appearing in said statements, and for the further reason that the articles were labeled as aforesaid so as to deceive and mislead the purchaser into the belief that they each contained 9 per cent of protein, that the Primo brand contained 2 per cent of fat, that the Bay Mule brand contained not more than 15 per cent of fiber, and that they consisted wholly of the ingredients appearing in the said statements, whereas, in truth and in fact, the Suwanee brand did contain less than 9 per cent of protein, to wit, 6.78 per cent, and was not composed only of corn, oats, rice bran, cottonseed meal, or velvet bean meal, alfalfa meal, oat feed, oat hulls, oat shorts, oat middlings, molasses, and salt, but did contain peanut shells and did not contain any cottonseed meal or velvet bean meal, the Primo brand did contain less than 2 per cent of fat and less than 9 per cent of protein, to wit, 1.53 per cent of fat, and 7.16 per cent of protein, and did not consist wholly of corn, oats, alfalfa, cane molasses, and salt, but did consist in part of rice hulls, the My-T-Good brand did contain less than 9 per cent of protein, to wit, 7.09 per cent, and the Bay Mule brand did contain less than 9 per cent of protein, to wit, 6.71 per cent, and did contain more than 15 per cent of fiber, to wit, 20.50 per cent, and did not consist wholly of corn, oats, alfalfa, cottonseed meal, oat feed (oat hulls, oat middlings, oat shorts), rice bran, cane molasses, and salt, but did consist in part of peanut shells, and contained no oat feed.

On December 6, 1921, pleas of guilty to the informations were entered on behalf of the defendant company, and the court imposed fines in the aggregate amount of \$40.

C. F. MARVIN, *Acting Secretary of Agriculture.*

10891. Adulteration and misbranding of vinegar. U. S. v. 4½ Barrels of Vinegar. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 13829. I. S. No. 3465-t. S. No. C-2564.)

On October 29, 1920, the United States attorney for the Western District of Wisconsin, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 4½ barrels of vinegar, remaining in the original unbroken packages at Grantsburg, Wis., alleging that the article had been shipped by Barrett & Co., Minneapolis, Minn., on or about August 26, 1920, and transported from the State of Minnesota into the State of Wisconsin, and charging adulteration and misbranding in violation of the Food and Drugs act, as amended.

Adulteration of the article was alleged in the libel for the reason that distilled vinegar had been mixed and packed therewith so as to reduce and lower and injuriously affect its quality and strength, and had been substituted wholly or in part for maize sugar fermented vinegar. Adulteration was alleged for the further reason that the article was artificially colored with caramel in such a manner as to conceal the inferiority of the said article.

Misbranding was alleged in substance for the reason that the barrels containing the article were labeled "Barrett & Company Maize Sugar Fermented Vinegar, Always Good Reduced to 4½% Acetic Strength * * * Minneapolis, Minn.," which statements regarding the said article were false and misleading and deceived and misled the purchaser. Misbranding was alleged for the